



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/871,976

06/04/2001

Akihiko Hosono

401225

3480

23548

7590

11/12/2004

LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON, DC 20005-3960

EXAMINER

TRAN, THANH Y

ART UNIT

PAPER NUMBER

2822

DATE MAILED: 11/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/871,976

Applicant(s)

HOSONO ET AL.

Examiner

Thanh Y. Tran

Art Unit

2822

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

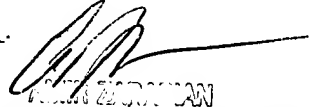
Claim(s) allowed: 9, 13 and 14.

Claim(s) objected to: _____.

Claim(s) rejected: 1 and 15-28.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


THANH Y. TRAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Continuation of 5. does NOT place the application in condition for allowance because: the claimed language in independent claims 1 and 15 does not overcome the prior art of Nakamoto (U.S. 6,097,138). Applicant argued that there is no structure described in Nakamoto that has a plurality of continuously connected intersecting walls transverse to the substrate. The Examiner disagreed with Applicant's argument because the language in claims 1 and 15 are met over the structure of Nakamoto, specially figures 1A and 1B of Nakamoto disclose the carbon body as referenced at 26 having a body consisting essentially of carbon and disposed on the substrate 12, the body consisting essentially of carbon having a plurality of continuously connected intersecting walls transverse to the substrate 12. With respect to Merriam-Webster's Collegiate Dictionary (Tenth Edition), a "wall" defines as "a material layer enclosing space", figure 1A of Nakamoto discloses the body 26 is a nanotube layer (see col. 7, lines 26-27 in Nakamoto) having a plurality of walls. Therefore, Applicant's argument with respect to claims 1 and 15 is not persuasive. Applicant's argument with respect to the Drawing Objection has been reconsidered and acknowledged but it is not persuasive because Applicant inconsistently numbering the "continuous film", for example: Applicant argued that a "continuous film" is referenced at 5, however in the specification of the invention, number 5 is used for indicating a "continuous portion" not a "continuous film". Applicant should use the same number for indicating the same item.